

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Mark S. Oliverio and Diane Oliverio,

Plaintiffs,

v.

Case No. 13-10296

Nextel West Corporation Sprint /Nextel,

Honorable Sean F. Cox

Defendant.

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**ORDER STRIKING**  
**INFORMAL REQUEST FOR LEAVE TO FILE AMENDED COMPLAINT**  
**CONTAINED WITHIN PLAINTIFFS' RESPONSE BRIEF**

Acting through Counsel, Plaintiffs filed suit against Defendant in state court. Defendant removed the action to this Court, based on diversity jurisdiction. Thereafter, on January 30, 2013, Defendant filed a Motion to Dismiss. (Docket Entry No. 3).

On February 19, 2013, Plaintiffs filed a brief in response to Defendant's Motion to Dismiss. (Docket Entry No. 6). In that brief, Plaintiffs state that they wish to amend their complaint.

At this stage of the litigation, Plaintiffs may amend their complaint "only with the opposing party's written consent<sup>1</sup> or the court's leave." Fed. R. Civ. P. 15(a).

Plaintiffs have not filed a motion seeking leave of this Court to file an amended complaint. Moreover, pursuant to Local Rule 15.1, a party who seeks leave to file an amended

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<sup>1</sup>Defendant's Reply Brief indicates that Defendant does not consent to Plaintiffs filing an amended complaint.

complaint must attach a copy of the proposed amended complaint to its motion seeking leave to file an amended complaint.

**IT IS ORDERED** that the Court hereby **STRIKES** the informal request to file an amended complaint that is contained within Plaintiffs' Response Brief.

**IT IS FURTHER ORDERED** that, if Plaintiffs wish to file an amended complaint, they shall file a formal motion seeking leave to file an amended complaint no later **April 16, 2013, at 5:00 p.m.**, and they must attach their proposed amended complaint as an exhibit to such motion.

**IT IS FURTHER ORDERED** that if Plaintiffs do not file a motion seeking leave to file an amended complaint by the above date, this Court shall proceed with the hearing on Defendant's pending Motion to Dismiss on April 25, 2013, and shall rule based upon the briefs filed.

**IT IS SO ORDERED.**

S/Sean F. Cox  
Sean F. Cox  
United States District Judge

Dated: April 5, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 5, 2013, by electronic and/or ordinary mail.

S/Jennifer McCoy  
Case Manager